

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	1998.03
COMPLAINT INVESTIGATOR:	Susan Reimlinger
DATE OF COMPLAINT:	February 6, 2003
DATE OF REPORT:	March 6, 2003
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	April 24, 2003

COMPLAINT ISSUES:

Whether the Indiana Department of Correction (DOC) violated:

511 IAC 7-27-2 by failing to provide adequate notice of case conference committee (CCC) meetings.

511 IAC 7-27-3 by failing to have all of the required CCC participants in attendance at CCC meetings.

511 IAC 7-27-4(c) by failing to utilize the CCC to develop, review, or revise the student's individualized education program (IEP).

511 IAC 7-27-5 by failing to provide the student's Guardian a copy of the written report of the CCC meeting, including the student's IEP.

511 IAC 7-27-7(A) by failing to implement the student's IEP as written, specifically, by not reporting the student's progress to the Guardian.

FINDINGS OF FACT:

1. The Student is 16 years old and eligible for special education and related services as a student with an emotional disability. The Student receives special education and related services in a general education classroom at the Facility.
2. Documentation submitted indicates that prior notice for the November 6, 2002, CCC meeting was sent to the Guardian on October 28, 2002. Along with the notice was a letter, also dated October 28, 2002, requesting that the Guardian return one of three responses - "I will attend...", "I will participate via a phone conference...", and "I am unable to participate." The Guardian checked "I will participate via a phone conference..." and signed the letter, undated. A note from a staff person to the Special Education Coordinator dated October 31, 2002, records a message that the Guardian also phoned in the response of "[be]ing available for the conference call."
3. The notice of CCC meeting form includes eight blanks for specified participants - case conference coordinator/school administrator (public agency representative), teacher of record, general educator, student, parent/legal guardian, speech/language pathologist, cottage counselor, and school psychologist/team member. The October 28 prior notice of this Student's CCC meeting indicates names for five expected participants - case conference coordinator/school administrator (public agency representative), teacher of record, general educator, student, and parent/legal guardian. Although an

invitation was sent to the Home School, the notice form does not include a specified blank for such representation. There is no documentation that a response to the invitation was received from the Home School and the October 28 notice does not indicate expected participation from the Home School. The notice does indicate that the Guardian can "be accompanied by any individual of your choice and/or request the school have additional persons present." There is no indication on the response form, or in the phone message note dated October 31, 2002, that the Guardian wished to have anyone else participate. The IEP of November 6, 2002, includes signatures for the public agency representative, the teacher of record, a general education teacher, and the student. The Guardian and parent are indicated as having participated by phone.

4. The Student's IEP was developed on November 6, 2002, by the Facility. It includes references to concerns about behavior in several sections - 1) present levels of performance, 2) two sections for needs, 3) two sections for special factors, 4) behavior goal, and 5) behavior contingency/intervention plan.
5. The Superintendent vows that the CCC report/IEP, notice of procedural safeguards, permission for placement form, a stamped, addressed envelope for return of the permission forms, and a cover letter of explanation and instruction were mailed to the Guardian on November 8, 2002. Documentation includes a copy of the cover letter, dated November 8, 2002. Documentation also includes the Vocational Rehabilitation permission for release of information form, which is part of the IEP, signed by the Guardian and dated November 11, 2002, but documentation does not include the permission for placement. There is no documentation that the Guardian has expressed to the Facility disagreement with IEP content or the placement, or requested another case conference, nor is there documentation of any effort made by the Facility to follow up on the missing signed permission for placement.
6. The Facility's IEP form lists on the goal page seven possible codes for the review dates of progress on goals being reported to a parent [legal guardian]. The November 6 IEP for this Student indicates that for the first goal, the codes are "3) 3 to 6 months teachers reports" and "4) credit report on subjects attempted", for the second goal the codes are "1) 2 weeks with treatment review" and "2) ongoing." While the code options for the way the progress will be reported include "a) report card" and "b) other (specify):", neither code is used for either goal. There is no documentation of the actual reports of progress having been sent to the Guardian according to any of the review date codes used.

CONCLUSIONS:

1. Finding of Fact #2 indicates that the prior notice for the November 6, 2002, CCC meeting was sent to the Guardian seven weekdays prior to the meeting and provided a choice of participation in person or via phone conference. The Guardian responded via paper (undated) and via phone (dated October 31, 2002) indicating that participation would be by phone conference. Therefore, no violation of 511 IAC 7-27-2 is found.
2. Finding of Fact #3 indicates that the notice of CCC meeting form allows blanks for five of the required participants, all of whom were expected to and did participate in the CCC meeting, and it states that the Guardian can bring or request that the school bring other participants, neither of which occurred. The notice form does not include either a blank for the Home School representative or a blank for "other" into which a Home School representative's name could be written. No documentation was provided regarding any additional steps taken to assure that the Home School knew about the CCC meeting and had made a decision about participation. Therefore, a violation of 511 IAC 7-27-3(e)(6) is found.
3. Finding of Fact #4 indicates that an IEP was developed by the Facility on November 6, 2002. The IEP does address the special factor regarding behavior impeding the learning of the student or others by

containing a behavior goal and a behavior intervention plan. Therefore, no violation of 511 IAC 7-27-4(c) is found.

4. Finding of Fact #5 indicates that there is documentation verifying the Guardian's receipt of the November 6 IEP in that the Vocational Rehabilitation release form was signed by the Guardian and dated November 11, 2002. Therefore, no violation of 511 IAC 7-27-5 is found. However, there will be correction action (see #1 below).
5. Finding of Fact #5 indicates that the two IEP goals use four codes for the review dates that progress will be reported to the Guardian. There is no documentation of any actual progress reports having been sent to the Guardian according to any of the four date codes. Therefore, a violation of 511 IAC is found.

The Department of Education, Division of Exceptional Learners requires corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

The Department of Correction shall:

1. Immediately take steps to determine the status of the Guardian's agreement with the November 6 IEP:
 - a) if agreement has been received from the Guardian since this complaint was filed, submit a copy to the Division no later than March 14, 2003.
 - b) if the Guardian agrees but has not yet returned agreement to the Facility, provide clear instructions to assist with it being returned and submit a copy of the signed agreement to the Division no later than March 28, 2003.
 - c) if the Guardian has not returned a signed agreement because of disagreement, construct a plan for addressing the disagreement and submit to the Division a copy of the plan no later than March 14, 2003. Submit to the Division a copy of the signed agreement no later than April 30, 2003
2. Revise the Facility's notice of case conference form to include a blank for "school corporation of legal settlement" and/or a blank for "other." Upon revision of the form, retrain all Facility special education and administrative staff about the requirements in 511 IAC 7-27-3 (e)(6) and (f). Until the form is revised, staff must be instructed to hand-write on all notices a blank for "school corporation of legal settlement" and/or a blank for "other", and then indicate the Home School's decision about participation. A copy of the revised form, a description of the method of retraining, and a list of the staff who were retrained shall be sent to the Division no later than May 30, 2003.
3. Send to the Guardian a written report of progress on the IEP goals - progress between November 6, 2002 and March 6, 2003 - by no later than March 21, 2003. A copy of this progress report shall be submitted to the Division no later than March 21, 2003.
4. Send a written reminder to the teacher of record regarding reporting progress to the Guardian according to the IEP. A copy of the written reminder and an assurance statement that the reminder was sent will be submitted to the Division no later than March 21, 2003.